

# House File 923 - Reprinted

HOUSE FILE \_\_\_\_\_  
BY COMMITTEE ON WAYS AND MEANS  
(SUCCESSOR TO HSB 106)

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

## A BILL FOR

1 An Act relating to the policy and technical administration of the  
2 tax and related laws by the department of revenue, including  
3 administration of income, sales, use, cigarette, and tobacco  
4 taxes, providing an effective date, and providing retroactive applicability date  
6 provisions.  
10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
14 HF 923  
16 mg/jg/25

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1 1 DIVISION I  
1 2 TAX ADMINISTRATION  
1 3 Section 1. Section 15E.44, subsection 1, Code 2007, is  
1 4 amended to read as follows:  
1 5 1. In order for an equity investment to qualify for a tax  
1 6 credit, the business in which the equity investment is made  
1 7 shall, within one hundred twenty days of the date of the first  
1 8 investment, notify the board of the names, addresses, ~~taxpayer~~  
1 9 ~~identification numbers~~, shares issued, consideration paid for  
1 10 the shares, and the amount of any tax credits, of all  
1 11 shareholders who may initially qualify for the tax credits,  
1 12 and the earliest year in which the tax credits may be  
1 13 redeemed. The list of shareholders who may qualify for the  
1 14 tax credits shall be amended as new equity investments are  
1 15 sold or as any information on the list shall change.  
1 16 Sec. 2. Section 15E.45, subsection 3, paragraph a,  
1 17 subparagraph (1), Code 2007, is amended to read as follows:  
1 18 (1) The names, addresses, ~~taxpayer identification numbers~~,  
1 19 equity interests issued, consideration paid for the interests,  
1 20 and the amount of any tax credits.  
1 21 Sec. 3. Section 331.434, subsection 1, Code 2007, is  
1 22 amended to read as follows:  
1 23 1. The budget shall show the amount required for each  
1 24 class of proposed expenditures, a comparison of the amounts  
1 25 proposed to be expended with the amounts expended for like  
1 26 purposes for the two preceding years, the revenues from  
1 27 sources other than property taxation, and the amount to be  
1 28 raised by property taxation, in the detail and form prescribed  
1 29 by the director of the department of management. For each  
1 30 county that has established an urban renewal area, the budget  
1 31 shall include estimated and actual tax increment financing  
1 32 revenues and all estimated and actual expenditures of the  
1 33 revenues, proceeds from debt and all estimated and actual  
1 34 expenditures of the debt proceeds, and identification of any  
1 35 entity receiving a direct payment of taxes funded by tax  
2 1 increment financing revenues and shall include the total  
2 2 amount of loans, advances, indebtedness, or bonds outstanding  
2 3 at the close of the most recently ended fiscal year, which  
2 4 qualify for payment from the special fund created in section  
2 5 403.19, including interest negotiated on such loans, advances,  
2 6 indebtedness, or bonds. For purposes of this subsection,  
2 7 "indebtedness" includes written agreements whereby the county  
2 8 agrees to suspend, abate, exempt, rebate, refund, or reimburse  
2 9 property taxes, provide a grant for property taxes paid, or  
2 10 make a direct payment of taxes, with moneys in the special  
2 11 fund. The amount of loans, advances, indebtedness, or bonds  
2 12 shall be listed in the aggregate for each county reporting.  
2 13 The county finance committee, in consultation with the  
2 14 department of management and the legislative services agency,  
2 15 shall determine reporting criteria and shall prepare a form

2 16 for reports filed with the department pursuant to this  
2 17 section. The department shall make the information available  
2 18 by electronic means.

2 19 Sec. 4. Section 384.16, subsection 1, unnumbered paragraph  
2 20 2, Code 2007, is amended to read as follows:

2 21 A budget must show comparisons between the estimated  
2 22 expenditures in each program in the following year, the latest  
2 23 estimated expenditures in each program in the current year,  
2 24 and the actual expenditures in each program from the annual  
2 25 report as provided in section 384.22, or as corrected by a  
2 26 subsequent audit report. Wherever practicable, as provided in  
2 27 rules of the committee, a budget must show comparisons between  
2 28 the levels of service provided by each program as estimated  
2 29 for the following year, and actual levels of service provided  
2 30 by each program during the two preceding years. For each city  
2 31 that has established an urban renewal area, the budget shall  
2 32 include estimated and actual tax increment financing revenues  
2 33 and all estimated and actual expenditures of the revenues,  
2 34 proceeds from debt and all estimated and actual expenditures  
2 35 of the debt proceeds, and identification of any entity

3 1 receiving a direct payment of taxes funded by tax increment  
3 2 financing revenues and shall include the total amount of  
3 3 loans, advances, indebtedness, or bonds outstanding at the  
3 4 close of the most recently ended fiscal year, which qualify  
3 5 for payment from the special fund created in section 403.19,  
3 6 including interest negotiated on such loans, advances,  
3 7 indebtedness, or bonds. For purposes of this subsection,  
3 8 "indebtedness" includes written agreements whereby the city  
3 9 agrees to suspend, abate, exempt, rebate, refund, or reimburse  
3 10 property taxes, provide a grant for property taxes paid, or  
3 11 make a direct payment of taxes, with moneys in the special  
3 12 fund. The amount of loans, advances, indebtedness, or bonds  
3 13 shall be listed in the aggregate for each city reporting. The  
3 14 city finance committee, in consultation with the department of  
3 15 management and the legislative services agency, shall  
3 16 determine reporting criteria and shall prepare a form for  
3 17 reports filed with the department pursuant to this section.  
3 18 The department shall make the information available by  
3 19 electronic means.

3 20 Sec. 5. Section 421.26, Code 2007, is amended to read as  
3 21 follows:

3 22 421.26 PERSONAL LIABILITY FOR TAX DUE.

3 23 If a licensee or other person under section 452A.65, a  
3 24 retailer or purchaser under chapter 423A, ~~or 423B, or 423E,~~ or  
3 25 section 423.31 or 423.33, or a retailer or purchaser under  
3 26 section 423.32, ~~or~~ a user under section 423.34, ~~or permit~~  
3 27 holder or licensee under section 453A.13, 453A.16, or 453A.44

3 28 fails to pay a tax under those sections when due, an officer  
3 29 of a corporation or association, notwithstanding sections  
3 30 490A.601 and 490A.602, a member or manager of a limited  
3 31 liability company, or a partner of a partnership, having  
3 32 control or supervision of or the authority for remitting the  
3 33 tax payments and having a substantial legal or equitable  
3 34 interest in the ownership of the corporation, association,  
3 35 limited liability company, or partnership, who has

4 1 intentionally failed to pay the tax is personally liable for  
4 2 the payment of the tax, interest, and penalty due and unpaid.  
4 3 However, this section shall not apply to taxes on accounts  
4 4 receivable. The dissolution of a corporation, association,  
4 5 limited liability company, or partnership shall not discharge  
4 6 a person's liability for failure to remit the tax due.

4 7 Sec. 6. Section 421.27, subsection 1, Code 2007, is  
4 8 amended by adding the following new paragraph:

4 9 NEW PARAGRAPH. m. That an Iowa inheritance tax return is  
4 10 filed for an estate within the later of nine months from the  
4 11 date of death or sixty days from the filing of a disclaimer by  
4 12 the beneficiary of the estate refusing to take the property or  
4 13 right or interest in the property.

4 14 Sec. 7. Section 421.27, subsection 2, Code 2007, is  
4 15 amended by adding the following new paragraph:

4 16 NEW PARAGRAPH. i. That an Iowa inheritance tax return is  
4 17 filed for an estate within the later of nine months from the  
4 18 date of death or sixty days from the filing of a disclaimer by  
4 19 the beneficiary of the estate refusing to take the property or  
4 20 right or interest in the property.

4 21 Sec. 8. Section 422.7, subsection 32, Code 2007, is  
4 22 amended by adding the following new paragraph:

4 23 NEW PARAGRAPH. c. Add the amount resulting from a  
4 24 withdrawal made by a taxpayer from the Iowa educational  
4 25 savings plan trust for purposes other than the payment of  
4 26 qualified education expenses to the extent previously deducted

4 27 as a contribution to the trust.

4 28 Sec. 9. Section 422.11S, subsection 1, Code 2007, is  
4 29 amended to read as follows:

4 30 1. The taxes imposed under this division less the credits  
4 31 allowed under sections 422.12 and 422.12B shall be reduced by  
4 32 a school tuition organization tax credit equal to sixty-five  
4 33 percent of the amount of the voluntary cash or noncash  
4 34 contributions made by the taxpayer during the tax year to a  
4 35 school tuition organization, subject to the total dollar value  
5 1 of the organization's tax credit certificates as computed in  
5 2 subsection 7. The tax credit shall be claimed by use of a tax  
5 3 credit certificate as provided in subsection 6.

5 4 Sec. 10. Section 422.11S, subsection 2, Code 2007, is  
5 5 amended by adding the following new paragraph:

5 6 NEW PARAGRAPH. c. The value of a noncash contribution  
5 7 shall be appraised pursuant to rules of the director.

5 8 Sec. 11. Section 422.11S, subsection 6, paragraph d, Code  
5 9 2007, is amended to read as follows:

5 10 d. Each school that is served by a school tuition  
5 11 organization shall submit a participation form annually to the  
5 12 department by ~~October 15~~ November 1 providing the following  
5 13 information:

5 14 (1) Certified enrollment as of ~~the third Friday of~~  
~~5 15 September October 1, or the first Monday in October if October~~  
5 16 1 falls on a Saturday or Sunday.

5 17 (2) The school tuition organization that represents the  
5 18 school. A school shall only be represented by one school  
5 19 tuition organization.

5 20 Sec. 12. Section 422.11S, subsection 7, paragraph b,  
5 21 unnumbered paragraph 1, Code 2007, is amended to read as  
5 22 follows:

5 23 Each year by ~~November 15~~ December 1, the department shall  
5 24 authorize school tuition organizations to issue tax credit  
5 25 certificates for the following tax year. However, for the tax  
5 26 year beginning in the 2006 calendar year only, the department,  
5 27 by September 1, 2006, shall authorize school tuition  
5 28 organizations to issue tax credit certificates for the 2006  
5 29 calendar tax year. For the tax year beginning in the 2006  
5 30 calendar year only, each school served by a school tuition  
5 31 organization shall submit a participation form to the  
5 32 department by August 1, 2006, providing the certified  
5 33 enrollment as of the third Friday of September 2005, along  
5 34 with the school tuition organization that represents the  
5 35 school. Tax credit certificates available for issue by each  
6 1 school tuition organization shall be determined in the  
6 2 following manner:

6 3 Sec. 13. Section 422.11S, subsection 8, unnumbered  
6 4 paragraph 1, Code 2007, is amended to read as follows:

6 5 A school tuition organization that receives a voluntary  
6 6 cash or noncash contribution pursuant to this section shall  
6 7 report to the department, on a form prescribed by the  
6 8 department, by January 12 of each tax year all of the  
6 9 following information:

6 10 Sec. 14. Section 422.12E, unnumbered paragraph 2, Code  
6 11 2007, is amended to read as follows:

6 12 If more checkoffs are enacted in the same session of the  
6 13 general assembly than there is space for inclusion on the  
6 14 individual tax return form, the earliest enacted checkoffs for  
6 15 which there is space for inclusion on the return form shall be  
6 16 included on the return form, and all other checkoffs enacted  
6 17 during that session of the general assembly are repealed. If  
~~6 18 more checkoffs are enacted in the same session of the general~~  
~~6 19 assembly than there is space for inclusion on the individual~~  
~~6 20 income tax form and the additional checkoffs are enacted on~~  
~~6 21 the same day, the director shall determine which checkoffs~~  
~~6 22 shall be included on the return form.~~

6 23 Sec. 15. Section 422.13, subsection 5, Code 2007, is  
6 24 amended to read as follows:

6 25 5. Notwithstanding subsections 1 through 4 and sections  
6 26 422.15 and 422.36, a partnership, a limited liability company  
6 27 whose members are taxed on the company's income under  
6 28 provisions of the Internal Revenue Code, trust, or corporation  
6 29 whose stockholders are taxed on the corporation's income under  
6 30 the provisions of the Internal Revenue Code may, not later  
6 31 than the due date for filing its return for the taxable year,  
6 32 including any extension thereof, elect to file a composite  
6 33 return for the nonresident partners, members, beneficiaries,  
6 34 or shareholders. Nonresident trusts or estates which are  
~~6 35 partners, members, beneficiaries, or shareholders in~~  
~~7 1 partnerships, limited liability companies, trusts, or S~~  
~~7 2 corporations may also be included on a composite return. The~~

7 3 director may require that a composite return be filed under  
7 4 the conditions deemed appropriate by the director. A  
7 5 partnership, limited liability company, trust, or corporation  
7 6 filing a composite return is liable for tax required to be  
7 7 shown due on the return. All powers of the director and  
7 8 requirements of the director apply to returns filed under this  
7 9 subsection including, but not limited to, the provisions of  
7 10 this division and division VI of this chapter.

7 11 Sec. 16. Section 422.16, subsection 12, Code 2007, is  
7 12 amended by adding the following new unnumbered paragraph:  
7 13 NEW UNNUMBERED PARAGRAPH. Notwithstanding this subsection,  
7 14 withholding agents are not required to withhold state income  
7 15 tax from a partner's pro rata share of income from a publicly  
7 16 traded partnership, as defined in section 7704(b) of the  
7 17 Internal Revenue Code, provided that the publicly traded  
7 18 partnership files with the department an information return  
7 19 that reports the name, address, taxpayer identification  
7 20 number, and any other information requested by the department  
7 21 for each unit holder with an income in this state from the  
7 22 publicly traded partnership in excess of five hundred dollars.

7 23 Sec. 17. Section 422.35, subsection 17, Code 2007, is  
7 24 amended to read as follows:

7 25 17. Subtract the amount of the employer social security  
7 26 credit allowable for the tax year under section 45B of the  
7 27 Internal Revenue Code to the extent that the credit increases  
7 28 federal ~~adjusted gross taxable~~ income.

7 29 Sec. 18. Section 422.73, subsection 3, Code 2007, is  
7 30 amended by striking the subsection.

7 31 Sec. 19. Section 422.75, Code 2007, is amended to read as  
7 32 follows:

7 33 422.75 STATISTICS == PUBLICATION.

7 34 The department shall prepare and publish an annual report  
7 35 which shall include statistics reasonably available, with  
8 1 respect to the operation of this chapter, including amounts  
8 2 collected, classification of taxpayers, and such other facts  
8 3 as are deemed pertinent and valuable. The annual report shall  
8 4 also include the reports and information required pursuant to  
8 5 ~~section 421.1, subsection 4, paragraph "e"; section 421.17,~~  
8 6 ~~subsection 13; section 421.17, subsection 27, paragraph "h";~~  
8 7 ~~and section 421.60, subsection 2, paragraphs "i" and "l"; and~~  
8 8 ~~1997 Iowa Acts, ch. 211, section 22, subsection 5, paragraph~~  
8 9 ~~"a".~~

8 10 Sec. 20. Section 423.2, subsection 6, unnumbered paragraph  
8 11 2, Code 2007, is amended to read as follows:

8 12 For the purposes of this subsection, "financial  
8 13 institutions" means all national banks, federally chartered  
8 14 savings and loan associations, federally chartered savings  
8 15 banks, federally chartered credit unions, banks organized  
8 16 under chapter 524, savings and loan associations and savings  
8 17 banks organized under chapter 534, ~~and~~ credit unions organized  
8 18 under chapter 533, ~~and all banks, savings banks, credit~~  
8 19 ~~unions, and savings and loan associations chartered or~~  
8 20 ~~otherwise created under the laws of any state and doing~~  
8 21 ~~business in Iowa.~~

8 22 Sec. 21. Section 423.3, subsection 65, Code 2007, is  
8 23 amended to read as follows:

8 24 65. The sales price from charges paid to a provider for  
8 25 access to on-line computer services. For purposes of this  
8 26 subsection, "on-line computer service" means a service that  
8 27 provides or enables computer access by multiple users to the  
8 28 internet or to other information made available through a  
8 29 computer server or other device.

8 30 Sec. 22. Section 423.3, subsection 80, paragraph b, Code  
8 31 2007, is amended to read as follows:

8 32 b. If a contractor, subcontractor, or builder is to use  
8 33 building materials, supplies, and equipment in the performance  
8 34 of a construction contract with a designated exempt entity,  
8 35 the person shall purchase such items of tangible personal  
9 1 property without liability for the tax if such property will  
9 2 be used in the performance of the construction contract and a  
9 3 purchasing agent authorization letter and an exemption  
9 4 certificate, issued by the designated exempt entity, are  
9 5 presented to the retailer. The sales price of building  
9 6 materials, supplies, or equipment is exempt from tax by this  
9 7 subsection only to the extent the building materials,  
9 8 supplies, or equipment are completely consumed in the  
9 9 performance of the construction contract with the designated  
9 10 exempt entity.

9 11 Sec. 23. Section 423.41, Code 2007, is amended to read as  
9 12 follows:

9 13 423.41 BOOKS == EXAMINATION.

9 14 Every retailer required or authorized to collect taxes  
9 15 imposed by this chapter and every person using in this state  
9 16 tangible personal property, services, or the product of  
9 17 services shall keep records, receipts, invoices, and other  
9 18 pertinent papers as the director shall require, in the form  
9 19 that the director shall require, for as long as the director  
9 20 has the authority to examine and determine tax due. The  
9 21 director or any duly authorized agent of the department may  
9 22 examine the books, papers, records, and equipment of any  
9 23 person either selling tangible personal property or services  
9 24 or liable for the tax imposed by this chapter, and investigate  
9 25 the character of the business of any person in order to verify  
9 26 the accuracy of any return made, or if a return was not made  
9 27 by the person, ascertain and determine the amount due under  
9 28 this chapter. These books, papers, and records shall be made  
9 29 available within this state for examination upon reasonable  
9 30 notice when the director deems it advisable and so orders. If  
9 31 the taxpayer maintains any records in an electronic format,  
9 32 the taxpayer shall comply with reasonable requests by the  
9 33 director or the director's authorized agents to provide those  
9 34 electronic records in a standard record format. The preceding  
9 35 requirements shall likewise apply to users and persons  
10 1 furnishing services enumerated in section 423.2.

10 2 Sec. 24. Section 423A.4, unnumbered paragraph 3, Code  
10 3 2007, is amended to read as follows:

10 4 A local hotel and motel tax shall be imposed on January 1  
10 5 or July 1, following the notification of the director of  
10 6 revenue. Once imposed, the tax shall remain in effect at the  
10 7 rate imposed for a minimum of one year. A local hotel and  
10 8 motel tax shall terminate only on June 30 or December 31. At  
10 9 least forty-five days prior to the tax being effective or  
10 10 prior to a revision in the tax rate, or prior to the repeal of  
10 11 the tax, a city or county shall provide notice by mail of such  
10 12 action to the director of revenue. The director shall have  
10 13 the authority to waive the notice requirement.

10 14 Sec. 25. Section 423B.1, subsection 6, paragraph b, Code  
10 15 2007, is amended to read as follows:

10 16 b. Within ten days of the election at which a majority of  
10 17 those voting on the question favors the imposition, repeal, or  
10 18 change in the rate of a local option tax, the county auditor  
10 19 shall give written notice of the result of the election by  
10 20 sending a copy of the abstract of the votes from the favorable  
10 21 election to the director of revenue or, in the case of a local  
10 22 vehicle tax, to the director of the department of  
10 23 transportation. The appropriate director shall have the  
10 24 authority to waive the notice requirement.

10 25 Sec. 26. Section 423E.2, subsection 5, paragraph b, Code  
10 26 2007, is amended to read as follows:

10 27 b. Within ten days of the election at which a majority of  
10 28 those voting on the question favors the imposition, repeal,  
10 29 extension, or change in the rate of the tax, the county  
10 30 auditor shall give written notice of the result of the  
10 31 election by sending a copy of the abstract of the votes from  
10 32 the favorable election to the director of revenue. Election  
10 33 costs shall be apportioned among school districts within the  
10 34 county on a pro rata basis in proportion to the number of  
10 35 registered voters in each school district who reside within  
11 1 the county and the total number of registered voters within  
11 2 the county. The director shall have the authority to waive  
11 3 the notice requirement.

11 4 Sec. 27. Section 427.3, Code 2007, is amended to read as  
11 5 follows:

11 6 427.3 ABATEMENT OF TAXES OF CERTAIN EXEMPT ENTITIES.

11 7 The board of supervisors may abate the taxes levied against  
11 8 property acquired by gift or purchase by a person or entity if  
11 9 the property acquired by gift or purchase was transferred to  
11 10 the person or entity after the deadline for filing for  
11 11 property tax exemption in the year in which the property was  
11 12 transferred and the property acquired by gift or purchase  
11 13 would have been exempt under section 427.1, subsection 7, 8,  
11 14 or 9, if the person or entity had been able to file for  
11 15 exemption in a timely manner.

11 16 Sec. 28. Section 403.23, Code 2007, is repealed.

11 17 Sec. 29. REFUND OF PROPERTY TAXES. Notwithstanding the  
11 18 deadline for filing a claim for property tax exemption for  
11 19 property described in section 427.1, subsection 8 or 9, and  
11 20 notwithstanding any other provision to the contrary, the board  
11 21 of supervisors of a county having a population based upon the  
11 22 latest federal decennial census of more than eighty-eight  
11 23 thousand but not more than ninety-five thousand shall refund  
11 24 the property taxes paid, with all interest, penalties, fees,

11 25 and costs which were due and payable in the fiscal year  
11 26 beginning July 1, 2002, and in the fiscal year beginning July  
11 27 1, 2005, on the land and buildings of an institution that  
11 28 purchased property and that did not receive a property tax  
11 29 exemption for the property due to the inability or failure to  
11 30 file for the exemption. To receive the refund provided for in  
11 31 this section, the institution shall apply to the county board  
11 32 of supervisors by October 1, 2007, and provide appropriate  
11 33 information establishing that the land and buildings for which  
11 34 the refund is sought were used by the institution for its  
11 35 appropriate objectives during the fiscal year beginning July  
12 1 1, 2002, and during the fiscal year beginning July 1, 2005.  
12 2 The refund allowed under this section only applies to property  
12 3 taxes, with all interest, penalties, fees, and costs, due and  
12 4 payable in the fiscal year beginning July 1, 2002, and in the  
12 5 fiscal year beginning July 1, 2005.

12 6 Sec. 30. IMMEDIATE EFFECTIVE DATE. The section of this  
12 7 division of this Act, amending section 427.3, being deemed of  
12 8 immediate importance, takes effect upon enactment and applies  
12 9 retroactively to property taxes due and payable in the fiscal  
12 10 year beginning July 1, 2002, and in the fiscal year beginning  
12 11 July 1, 2005.

12 12 Sec. 31. RETROACTIVE APPLICABILITY DATE. The sections of  
12 13 this division of this Act amending section 422.11S,  
12 14 subsections 1, 2, and 8, apply retroactively to January 1,  
12 15 2007, for tax years beginning on or after that date.

#### 12 16 DIVISION II

#### 12 17 CIGARETTES AND TOBACCO

12 18 Sec. 32. Section 421B.3, Code 2007, is amended by adding  
12 19 the following new subsection:

12 20 NEW SUBSECTION. 3. a. The following civil penalties  
12 21 shall be imposed for a violation of this section:

12 22 (1) A two hundred dollar penalty for the first violation.

12 23 (2) A five hundred dollar penalty for a second violation

12 24 within three years of the first violation.

12 25 (3) A thousand dollar penalty for a third or subsequent

12 26 violation within three years of the first violation.

12 27 Each day the violation occurs counts as a new violation for  
12 28 purposes of this subsection.

12 29 b. The civil penalty imposed under this subsection is in  
12 30 addition to the penalty imposed under subsection 1. Penalties  
12 31 collected under this subsection shall be deposited into the  
12 32 general fund of the state.

12 33 Sec. 33. Section 453A.7, unnumbered paragraph 2, Code  
12 34 2007, is amended to read as follows:

12 35 There is appropriated annually from the ~~general fund of the~~  
~~13 1 state the sum of one hundred fifteen thousand dollars state~~  
~~13 2 treasury from funds not otherwise appropriated an amount~~  
~~13 3 sufficient~~ to carry out the provisions of this section.

13 4 Sec. 34. Section 453A.13, subsections 5 and 9, Code 2007,  
13 5 are amended to read as follows:

13 6 5. APPLICATION == BOND. ~~Said permits~~ Permits shall be  
13 7 issued only upon applications accompanied by the fee indicated  
13 8 above, and by an adequate bond as provided in section 453A.14,  
13 9 and upon forms furnished by the department upon written  
13 10 request. The failure to furnish such forms shall be no excuse  
13 11 for the failure to file the ~~same forms~~ unless absolute refusal  
13 12 is shown. ~~Said~~ The forms shall set forth all of the  
~~13 13 following:~~

13 14 a. The manner under which ~~such the~~ distributor,  
13 15 wholesaler, or retailer, transacts or intends to transact such  
13 16 business as a distributor, wholesaler, or retailer.

13 17 b. The principal office, residence, and place of business  
~~13 18 for which where~~ the permit is to apply.

13 19 c. If the applicant is not an individual, the principal  
13 20 officers or members ~~thereof, not to exceed three,~~ and their  
13 21 addresses.

13 22 d. ~~Such~~ Any other information as the director shall by  
13 23 rules prescribe.

13 24 9. PERMIT == FORM AND CONTENTS. Each permit issued shall  
13 25 describe clearly the place of business for which it is issued,  
13 26 shall be nonassignable, consecutively numbered, designating  
13 27 the kind of permit, and shall authorize the sale of cigarettes  
13 28 in this state subject to the limitations and restrictions  
13 29 herein contained. The retail permits shall be upon forms  
13 30 furnished by the department or on forms made available or  
~~13 31 approved by the department.~~

13 32 Sec. 35. Section 453A.13, Code 2007, is amended by adding  
13 33 the following new subsection:

13 34 NEW SUBSECTION. 10. PERMIT DISPLAYED. The permit shall,  
13 35 at all times, be publicly displayed by the distributor,

14 1 wholesaler, or retailer at the place of business so as to be  
14 2 easily seen by the public and the persons authorized to  
14 3 inspect the place of business. The proprietor or keeper of  
14 4 any building or place where cigarettes and other tobacco  
14 5 products are kept for sale, or with intent to sell, shall upon  
14 6 request of any agent of the department or any peace officer  
14 7 exhibit the permit. A refusal or failure to exhibit the  
14 8 permit is prima facie evidence that the cigarettes or other  
14 9 tobacco products are kept for sale or with intent to sell in  
14 10 violation of this division.

14 11 Sec. 36. Section 453A.15, subsection 2, Code 2007, is  
14 12 amended to read as follows:

14 13 2. Where a state permit holder sells cigarettes at retail,  
14 14 the holder shall be required to ~~issue an invoice to the~~  
~~14 15 holder's retail department for maintain detailed records for~~  
14 16 sales of cigarettes to be sold at retail and ~~such the~~  
14 17 cigarette ~~invoices~~ sales records shall be kept separate and  
14 18 apart.

14 19 Sec. 37. Section 453A.15, Code 2007, is amended by adding  
14 20 the following new subsection:

14 21 NEW SUBSECTION. 7. The director may require by rule that  
14 22 reports required to be made under this division be filed by  
14 23 electronic transmission.

14 24 Sec. 38. Section 453A.18, Code 2007, is amended to read as  
14 25 follows:

14 26 453A.18 FORMS FOR RECORDS AND REPORTS.

14 27 The department shall furnish or make available in  
14 28 electronic form, without charge, to holders of the various  
14 29 permits, forms in sufficient quantities to enable permit  
14 30 holders to make the reports required to be made under this  
14 31 division. The permit holders shall furnish at their own  
14 32 expense the books, records, and invoices, required to be used  
14 33 and kept, but the books, records, and invoices shall be in  
14 34 exact conformity to the forms prescribed for that purpose by  
14 35 the director, and shall be kept and used in the manner  
15 1 prescribed by the director. However, the director may, by  
15 2 express order in certain cases, authorize permit holders to  
15 3 keep their records in a manner and upon forms other than those  
15 4 ~~so~~ prescribed. The authorization may be revoked at any time.

15 5 Sec. 39. Section 453A.24, Code 2007, is amended to read as  
15 6 follows:

15 7 453A.24 CARRIER TO PERMIT ACCESS TO RECORDS.

15 8 1. Every common carrier or person in this state having  
15 9 custody of books or records showing the transportation of  
15 10 cigarettes both interstate and intrastate shall give and allow  
15 11 the department free access to such those books and records.

15 12 2. The director may require by rule that common carriers  
15 13 or the appropriate persons provide monthly reports to the  
15 14 department detailing all information the department deems  
15 15 necessary on shipments into and out of Iowa of cigarettes and  
15 16 tobacco products as set forth in divisions I and II of this  
15 17 chapter. The director may require by rule that the reports be  
15 18 filed by electronic transmission.

15 19 Sec. 40. Section 453A.25, subsection 3, Code 2007, is  
15 20 amended to read as follows:

15 21 3. The director ~~is hereby authorized to appoint an~~  
~~15 22 assistant, whose sole duty it shall be may designate employees~~  
15 23 to administer and enforce the provisions of this chapter,  
15 24 including the collection of all taxes provided for herein in  
15 25 this chapter. In such the enforcement, the director may  
15 26 request aid from the attorney general, the special agents of  
15 27 the state, any county attorney, or any peace officer. The  
15 28 director ~~is authorized to may~~ appoint such clerks and  
15 29 additional help as may be needed to ~~carry out the provisions~~  
~~15 30 of administer~~ this chapter.

15 31 Sec. 41. Section 453A.30, Code 2007, is amended to read as  
15 32 follows:

15 33 453A.30 ASSESSMENT OF COST OF AUDIT.

15 34 The department may employ auditors or other persons to  
15 35 audit and examine the books and records of any permit holder  
16 1 or other person dealing in cigarettes to ascertain whether  
16 2 such the permit holder or other person has paid the amount of  
16 3 the taxes required to be paid by the holder or person or filed  
16 4 all reports containing all required information as specified  
16 5 by the department under the provisions of this chapter. If  
16 6 such taxes have not been paid or such reports not filed, as  
16 7 required, the department shall assess against such the permit  
16 8 holder or other person, as additional penalty, the reasonable  
16 9 expenses and costs of such the investigation and audit.

16 10 Sec. 42. Section 453A.31, Code 2007, is amended by adding  
16 11 the following new unnumbered paragraph:

16 12 NEW UNNUMBERED PARAGRAPH. If a cigarette distributor fails  
16 13 to file a return or to report timely, stamps shall not be  
16 14 provided to that cigarette distributor until all returns and  
16 15 reports are filed properly and all tax, penalties, and  
16 16 interest are paid.

16 17 Sec. 43. Section 453A.32, Code 2007, is amended by adding  
16 18 the following new subsection:

16 19 NEW SUBSECTION. 6. The provisions of this section  
16 20 applying to cigarettes shall also apply to tobacco products  
16 21 taxed under division II of this chapter.

16 22 Sec. 44. Section 453A.36, subsection 6, Code 2007, is  
16 23 amended to read as follows:

16 24 6. Any sales of cigarettes or tobacco products made  
16 25 through a cigarette vending machine are subject to rules and  
16 26 penalties relative to retail sales of cigarettes and tobacco  
16 27 products provided for in this chapter. ~~No cigarettes shall~~  
16 28 Cigarettes shall not be sold through any cigarette vending  
16 29 machine unless the cigarettes have been properly stamped or  
16 30 metered as provided by this division, and in case of violation  
16 31 of this provision, the permit of the dealer authorizing retail  
16 32 sales of cigarettes shall be ~~canceled~~ revoked. Payment of the  
16 33 license permit fee as provided in section 453A.13 authorizes a  
16 34 cigarette vendor to sell cigarettes or tobacco products  
16 35 through vending machines. However, cigarettes or tobacco  
17 1 products shall not be sold through a vending machine unless  
17 2 the vending machine is located in a place where the retailer  
17 3 ensures that no person younger than eighteen years of age is  
17 4 present or permitted to enter at any time. Cigarettes or  
17 5 tobacco products shall not be sold through any cigarette  
17 6 vending machine if such products are placed together with any  
17 7 nontobacco product, other than matches, in the cigarette  
17 8 vending machine. This section does not require a retail  
17 9 licensee permit holder to buy a cigarette vendor's permit if  
17 10 the retail ~~licensee permit holder~~ is in fact the owner of the  
17 11 cigarette vending machines and the machines are operated in  
17 12 the location described in the retail permit.

17 13 Sec. 45. Section 453A.36, Code 2007, is amended by adding  
17 14 the following new subsection:

17 15 NEW SUBSECTION. 7A. It shall be unlawful for a holder of  
17 16 a retail permit to sell or distribute any cigarettes or  
17 17 tobacco products, including but not limited to a single or  
17 18 loose cigarette, that are not contained within a sealed  
17 19 carton, pack, or package as provided by the manufacturer,  
17 20 which carton, pack, or package bears the health warning that  
17 21 is required by federal law.

17 22 Sec. 46. Section 453A.43, subsections 1 and 2, Code 2007,  
17 23 as amended by 2007 Iowa Acts, Senate File 128, are amended to  
17 24 read as follows:

17 25 1. a. A tax is imposed upon all tobacco products in this  
17 26 state and upon any person engaged in business as a distributor  
17 27 of tobacco products, at the rate of twenty-two percent of the  
17 28 wholesale sales price of the tobacco products, except little  
17 29 cigars and snuff as defined in section 453A.42.

17 30 b. In addition to the tax imposed under paragraph "a", a  
17 31 tax is imposed upon all tobacco products in this state and  
17 32 upon any person engaged in business as a distributor of  
17 33 tobacco products, at the rate of twenty-eight percent of the  
17 34 wholesale sales price of the tobacco products, except little  
17 35 cigars and snuff as defined in section 453A.42, ~~with the~~

~~18 1 limitation that if the tobacco product is a cigar, the~~  
~~18 2 additional tax shall not exceed fifty cents per cigar.~~

18 3 c. Notwithstanding the rate of tax imposed pursuant to  
18 4 paragraphs "a" and "b", if the tobacco product is a cigar, the  
18 5 total amount of the tax imposed pursuant to paragraphs "a" and  
18 6 "b" combined shall not exceed fifty cents per cigar.

18 7 ~~e. d.~~ Little cigars shall be subject to the same rate of  
18 8 tax imposed upon cigarettes in section 453A.6, payable at the  
18 9 time and in the manner provided in section 453A.6; and stamps  
18 10 shall be affixed as provided in division I of this chapter.  
18 11 Snuff shall be subject to the tax as provided in subsections 3  
18 12 and 4.

18 13 ~~d. e.~~ The taxes on tobacco products, excluding little  
18 14 cigars and snuff, shall be imposed at the time the distributor  
18 15 does any of the following:

- 18 16 (1) Brings, or causes to be brought, into this state from  
18 17 outside the state tobacco products for sale.
  - 18 18 (2) Makes, manufactures, or fabricates tobacco products in  
18 19 this state for sale in this state.
  - 18 20 (3) Ships or transports tobacco products to retailers in  
18 21 this state, to be sold by those retailers.
- 18 22 2. a. A tax is imposed upon the use or storage by

18 23 consumers of tobacco products in this state, and upon the  
18 24 consumers, at the rate of twenty=two percent of the cost of  
18 25 the tobacco products.  
18 26 b. In addition to the tax imposed in paragraph "a", a tax  
18 27 is imposed upon the use or storage by consumers of tobacco  
18 28 products in this state, and upon the consumers, at a rate of  
18 29 twenty=eight percent of the cost of the tobacco products, ~~with~~  
~~18 30 the limitation that if the tobacco product is a cigar, the~~  
~~18 31 additional tax shall not exceed fifty cents per cigar.~~  
18 32 c. Notwithstanding the rate of tax imposed pursuant to  
18 33 paragraphs "a" and "b", if the tobacco product is a cigar, the  
18 34 total amount of the tax imposed pursuant to paragraphs "a" and  
18 35 "b" combined shall not exceed fifty cents per cigar.

19 1 ~~e.~~ d. The taxes imposed by this subsection shall not  
19 2 apply if the taxes imposed by subsection 1 on the tobacco  
19 3 products have been paid.  
19 4 ~~d.~~ e. The taxes imposed under this subsection shall not  
19 5 apply to the use or storage of tobacco products in quantities  
19 6 of:  
19 7 (1) Less than twenty=five cigars.  
19 8 (2) Less than one pound smoking or chewing tobacco or  
19 9 other tobacco products not specifically mentioned herein, in  
19 10 the possession of any one consumer.  
19 11 Sec. 47. Section 453A.45, subsection 5, unnumbered  
19 12 paragraphs 2 and 4, Code 2007, are amended to read as follows:  
19 13 Such ~~The~~ report shall be made on forms provided by the  
19 14 director or the director may require by rule that the report  
19 15 be filed by electronic transmission.

19 16 Any person who fails or refuses to transmit to the director  
19 17 the required reports or whoever refuses to permit the  
19 18 examination of the records by the director shall be guilty of  
19 19 a ~~simple~~ serious misdemeanor.

19 20 Sec. 48. Section 453A.46, subsections 1 and 3, Code 2007,  
19 21 are amended to read as follows:

19 22 1. On or before the twentieth day of each calendar month  
19 23 every distributor with a place of business in this state shall  
19 24 file a return with the director showing for the preceding  
19 25 calendar month the quantity and wholesale sales price of each  
19 26 tobacco product brought, or caused to be brought, into this  
19 27 state for sale; ~~and~~ made, manufactured, or fabricated in this  
19 28 state for sale in this state, ~~during the preceding calendar~~  
~~19 29 month; and any other information the director may require.~~

19 30 Every licensed distributor outside this state shall in like  
19 31 manner file a return with the director showing for the  
19 32 preceding calendar month the quantity and wholesale sales  
19 33 price of each tobacco product shipped or transported to  
19 34 retailers in this state to be sold by those retailers, ~~during~~  
~~19 35 the preceding calendar month and any other information the~~  
20 1 ~~director may require.~~ Returns shall be made upon forms

20 2 furnished or made available in electronic form and prescribed  
20 3 by the director and shall contain other information as the  
20 4 director may require. Each return shall be accompanied by a  
20 5 remittance for the full tax liability shown on the return,  
20 6 less a discount as fixed by the director not to exceed five  
20 7 percent of the tax. Within three years after the return is  
20 8 filed or within three years after the return became due,  
20 9 whichever is later, the department shall examine it, determine  
20 10 the correct amount of tax, and assess the tax against the  
20 11 taxpayer for any deficiency. The period for examination and  
20 12 determination of the correct amount of tax is unlimited in the  
20 13 case of a false or fraudulent return made with the intent to  
20 14 evade tax, or in the case of a failure to file a return.

20 15 The three-year ~~period of~~ limitation period may be extended  
20 16 by a taxpayer by signing a waiver agreement form ~~to be~~  
20 17 provided by the department. The agreement must stipulate the  
20 18 ~~period of~~ extension period and the tax period to which the  
20 19 extension applies. The agreement must also ~~provide~~ stipulate  
20 20 that a claim for refund may be filed by the taxpayer at any  
20 21 time during the ~~period of~~ extension period.

20 22 3. In addition to the tax or additional tax, the taxpayer  
20 23 shall also pay a penalty as provided in section 421.27 and be  
20 24 subject to the civil penalties set forth in sections 421.27;  
20 25 453A.31, subsection 2; and 453A.50, subsection 3, as  
20 26 applicable.

20 27 Sec. 49. Section 453A.46, Code 2007, is amended by adding  
20 28 the following new subsection:  
20 29 NEW SUBSECTION. 7. The director may require by rule that  
20 30 reports be filed by electronic transmission.

20 31 Sec. 50. Section 453A.50, subsection 2, Code 2007, is  
20 32 amended to read as follows:

20 33 2. ~~Any~~ Except as otherwise provided, any person who

20 34 otherwise violates any provisions of this division shall be  
20 35 guilty of a simple misdemeanor.

21 1 Sec. 51. Section 453A.50, Code 2007, is amended by adding  
21 2 the following new subsection:

21 3 NEW SUBSECTION. 3. The following civil penalties shall be  
21 4 imposed for a violation of this division:

21 5 a. A two hundred dollar penalty for the first violation.

21 6 b. A five hundred dollar penalty for a second violation  
21 7 within three years of the first violation.

21 8 c. A thousand dollar penalty for a third or subsequent  
21 9 violation within three years of the first violation.

21 10 The penalty imposed in this subsection is in addition to  
21 11 the tax, penalty, and interest imposed in other sections of  
21 12 this division. Each day a violation occurs counts as a new  
21 13 violation for purposes of this subsection.

21 14 Sec. 52. NEW SECTION. 453A.51 ASSESSMENT OF COST OF  
21 15 AUDIT.

21 16 The department may employ auditors or other persons to  
21 17 audit and examine the books and records of a permit holder or  
21 18 other person dealing in tobacco products to ascertain whether  
21 19 the permit holder or other person has paid the amount of the  
21 20 taxes required to be paid by the permit holder or other person  
21 21 under the provisions of this chapter. If the taxes have not  
21 22 been paid, as required, the department shall assess against  
21 23 the permit holder or other person, as additional penalty, the  
21 24 reasonable expenses and costs of the investigation and audit.

21 25 Sec. 53. Section 453C.1, subsection 10, Code 2007, is  
21 26 amended to read as follows:

21 27 10. "Units sold" means the number of individual cigarettes  
21 28 sold in the state by the applicable tobacco product  
21 29 manufacturer, whether directly or through a distributor,  
21 30 retailer, or similar intermediary or intermediaries, during  
21 31 the year in question, as measured by excise taxes collected by  
21 32 the state on packs bearing the excise stamp of the state or on  
21 33 roll-your-own tobacco containers. The department of revenue  
21 34 shall adopt rules as are necessary to ascertain the amount of  
21 35 state excise tax paid on the cigarettes of such tobacco  
22 1 product manufacturer for each year.

22 2 Sec. 54. REFUNDS. Refunds of taxes which result from the  
22 3 amendment to section 453A.43, in this division of this Act,  
22 4 relating to the limitation on the taxes imposed on cigars  
22 5 occurring between March 15, 2007, and the effective date of  
22 6 the amendment to section 453A.43 in this division of this Act,  
22 7 shall not be allowed unless refund claims are filed prior to  
22 8 October 1, 2007, notwithstanding any other provision of law.  
22 9 Claimants shall not be entitled to interest on any refunds.

22 10 Sec. 55. EFFECTIVE DATE AND APPLICABILITY. The provision  
22 11 in this division of this Act amending section 453A.43, and the  
22 12 section of this division of this Act providing refunds  
22 13 resulting from the amendment of section 453A.43, being deemed  
22 14 of immediate importance, take effect upon enactment and are  
22 15 retroactively applicable to March 15, 2007.

22 16 HF 923

22 17 mg:sc/jg/25